



DRAWING AMENDMENT

Please substitute the enclosed replacement drawing sheet into the application.

REMARKS

The Office Action mailed April 6, 2006 has been received and reviewed. The Office Action was mailed in response to the Applicants' Appeal Brief. By the present Response and Amendment, no claims have been amended. Currently pending are 1-3, 5-11, 13-17, and 19-20. No new matter is introduced. All claims are now believed to be in condition for allowance for the reasons set forth below.

Claim Rejections Under 35. U.S.C. §112

Claim 20 is rejected by the Examiner as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection. Applicants respectfully submit that the Fig. 5A shows the yoke of the foothold device and herewith provide a substitute drawing sheet clearly identifying the yoke with reference number 106 in Fig. 5A. Applicants submit that no new matter has been added. Accordingly, Applicants respectfully request the Examiner to withdraw this rejection.

Claim Rejections Under 35 U.S.C. §102

Claims 1-3, 5-9, 11, 13-15, and 19 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 5,971,104 of Woller. Applicants respectfully traverse this rejection.

Claims 1-3, 5-9, 11, 13-15, and 19 are not anticipated by U.S. Patent Number 5,971,104 of Woller. Independent Claim 1 recites, in part, a foot engaging member comprising "a rigid tail portion having a curved elongate body and extending away from the mounting portion" (emphasis added). Claim 8 recites a climbing tree stand assembly having "a pair of rigid footholds attached to the platform or the support arms and extending generally over the platform" (emphasis added). Claim 14 recites a "pair of rigid foothold devices attached to the platform or the support arms" (emphasis added). Applicants note

that all claims have limitations regarding a rigid structure for the foot-engaging member or foothold.

On the other hand, U.S. Patent Number 5,971,104 of Woller discloses a pair of stiff, flexible straps, which are not rigid, for providing the outdoorsman a mechanism to manipulate the foot-support assembly. Apparently, the Examiner is maintaining his position that the word "rigid" is synonymous with the word "stiff". The Examiner's position is obviously not sustainable. Previously, the Examiner provided the Applicants with a dictionary definition of the word "rigid" as meaning "appearing stiff and unyielding" (Webster's 10th edition, emphasis added). It appears that the Examiner continues to ignore the second part of the definition of rigid in that not only are rigid devices stiff, but they are also unyielding. For example, a man's shirt collar is stiff in that the collar can stand up under its own weight, but no one would consider a man's shirt collar to be rigid. If some amount of force is applied to the shirt collar, it will yield and deform. Thus, a man's shirt collar is stiff, but it is certainly not rigid. Similarly, the flexible straps of U.S. Patent Number 5,971,104 of Woller are stiff, but they are not rigid. U.S. Patent Number 5,971,104 of Woller discloses:

The straps may be fashioned from suitable, conventional nylon web material. One-inch wide nylon webbing is preferred since it has a stiffness that causes the strap to stand up presenting a loop for the outdoorsman. In addition, other materials such as cotton, dacron, synthetic polymers, and the like can be used for the foot straps 96, or the strap 66 of the seat assembly. (Col. 7, lines 41-48).

Thus, the straps of U.S. Patent Number 5,971,104 of Woller are stiff, but they are not rigid because the straps will yield and deform if force is applied to them, just like a man's shirt collar.

Moreover, the Examiner's statement that U.S. Patent Number 5,971,104 of Woller discloses rigid foothold devices is inaccurate. Simply stated, U.S. Patent Number 5,971,104 of Woller discloses flexible (not rigid) straps to be used as foothold devices. Though U.S. Patent Number 5,971,104 of Woller does indeed state that the flexible straps can be fashioned from synthetic polymers, there is no disclosure, teaching, or suggestion in the Woller reference of a rigid foothold device. Thus, "the synthetic polymers" of Woller are clearly flexible polymers or flexible plastics. Moreover, even the term "strap" implies

that such element is flexible and not rigid. Simply put, one of skill in the art cannot read the Woller reference to disclose rigid foothold devices.

By stark contrast, the foothold devices of the present application are both stiff and unyielding when force is applied, and are thus rigid, which is not disclosed, taught, or suggested by U.S. Patent Number 5,971,104 of Woller. Thus, Claims 1, 8, and 14 are not anticipated by U.S. Patent Number 5,971,104. Accordingly, allowance of Claims 1, 8, and 14 is respectfully requested.

Because dependent Claims 2-3, 5-7, 9, 11, 13, 15, and 19 include patentably distinct elements and limitations of their own and incorporate the limitations of Claims 1, 8, and 14 these dependent claims are allowable for at least the reasons set forth above for the corresponding independent claim. Thus, Claims 2-3, 5-7, 9, 11, 13, 15, and 19 are also allowable. Accordingly, allowance of Claims 2-3, 5-7, 9, 11, 13, 15, and 19 is respectfully requested.

Claims 10 and 16

Applicants thank the Examiner for recognizing the allowable subject matter of Claims 10 and 16, but in light of the remarks herein, Applicants respectfully submit that all claims are allowable in their current forms.

Claim 17

On the Office Action Summary sheet Claim 17 appears to be rejected; however, there are no substantive rejections of Claim 17 in the Office Action. Applicants respectfully submit that Claim 17 is allowable.

Applicants respectfully urge the Examiner to reconsider his position and allow the claims. Applicants had previously filed a Notice of Appeal and an Appeal Brief to advance prosecution, but the Examiner has reopened prosecution and has maintained essentially the same substantive grounds of rejection (namely, the 102 rejections). Thus, pursuant to M.P.E.P. § 1207.04, Applicants have filed herewith a Notice of Appeal and an Appeal Brief.

CONCLUSION

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicants earnestly solicit early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicants' undersigned attorney at 770.984.2300.

Respectfully submitted,
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